

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION

)	Complaint No. 98-111
In the matter of:)	Administrative Civil Liability
)	for
Foam Molders &)	Violations of the California Water Code
Specialties, Inc.)	Section 13376
20004 State Road)	
City of Cerritos, CA 90701)	

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Foam Molders & Specialties, Inc. is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Los Angeles Region (hereinafter Regional Board), may impose civil liability pursuant to Section 13385 of the California Water Code (CWC).
2. Unless waived, a hearing on this matter will be held before the Regional Board on January 25, 1999 at 9:00 a.m., in the Richard H. Chambers U.S. Court of Appeals Building, 125 South Grand Avenue, Pasadena, California. You and/or your representative(s) will have an opportunity to be heard and to contest the allegations in this complaint and the imposition of civil liability by the Regional Board. An agenda for the hearing will be mailed to you not less than ten days before the hearing date.
3. At the hearing, the Regional Board will consider whether to affirm, reject or modify the proposed administrative liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability, or any other action appropriate as a result of the hearing.
4. The State of California has adopted a General Permit for Storm Water Discharges Associated with Industrial Activities, Water Quality Order No. 97-03-DWQ, NPDES No. CAS000001 (General Permit). The General Permit requires facilities to submit a Notice of Intent (NOI) when covered by the permit.
5. On September 13, 1993, Foam Molders & Specialties, Inc. (Permittee) filed an NOI signed by Mr. Daniel M. Doke to comply with the terms of the General Permit. By filing an NOI, the Permittee is required to comply with all terms and conditions of this General Permit, which includes submission of an annual report to the Regional Board, as well as implementation of an effective storm water pollution prevention plan.

6. The General Permit requires each permittee to submit an annual report by July 1 of each year. Regional Board records show that the Permittee has not submitted two annual reports due in 1997 and 1998. The Permittee has been in violation of the General Permit for 440 days (July 2, 1997 to December 22, 1998) and is civilly liable for a total of 440 days of violation.
7. On April 28, 1998, a Notice of Violation (NOV) was issued to the Permittee for failure submit the 1996-1997 annual report including a signed Certification Statement and an Annual Site Inspection/Comprehensive Site Compliance Evaluation. Again, on August 17, 1998, a non-compliance letter was sent to the Permittee for failure submit the 1997-1998 annual report. Subsequently, on December 3, 1998, another NOV was issued to the Permittee for non-submittal of the 1997-1998 annual report.

The Permittee has failed to respond to the Notices of Violation, and the Annual Reports have not been submitted to date. The Permittee is in violation of the General Permit, the Federal Clean Water Act, and the California Water Code.

8. Section 13385(a)(2) of the CWC provides that any person who violates any waste discharge requirements issued pursuant to the Federal Water Pollution Control Act shall be civilly liable. Section 13385(c) provides that civil liability may be administratively imposed by a regional board in an amount not to exceed ten thousand dollars (\$10,000) for each day the violation occurs. The total maximum liability that may be assessed for this violation is \$4,400,000.00
9. In determining any liability to be imposed, CWC Section 13385(e) requires the Regional Board to consider the following factors:
 - a. Nature, circumstances, extent, and gravity of the violations: Permittee has been notified and given opportunity for over four months to submit annual reports. Permittee has not complied, therefore this factor does not warrant a reduction in the maximum liability.
 - b. The ability of the permittee to pay: Because this business facility is considered small business suggesting an inability of the Permittee to pay the maximum assessment. Therefore, reduction in the civil liability is warranted.
 - c. Prior history of violations: Permittee has been in violation for two years since July 2, 1997, when their first annual report was due. Therefore, no reduction in the civil liability is warranted.
 - e. Economic benefit or savings: Permittee realized cost savings by failure to perform required sampling and analyses and preparing the five annuals reports. Therefore, no reduction in the civil liability is warranted.
 - f. Other matters as justice may require: Staff time to prepare this complaint is estimated to be \$750 (10 hours at \$75 per hour).

10. **Recommended Civil Liability:** While CWC Section 13385(c) authorizes the Regional Board to impose a maximum civil liability of \$4,400,000.00. Upon consideration of the foregoing factors as required by CWC Section 13385(e), the Executive Officer recommends a civil liability of \$5,250.00 for violation of the General Permit requirements from July 2, 1997 to December 22, 1998.
11. **WAIVER OF A HEARING:** The Permittee may waive the right to a hearing. If the Permittee wishes to waive the right to a hearing, please sign the attached waiver and return it, together with a check in the amount of \$5,250.00 (payable to the State Water Resources Control Board, Cleanup and Abatement Account). If you have any questions, please contact Carlos D. Santos (323) 266-7644 or the Regional Board counsel, Mr. Jorge Leon, at (916) 657-2428.

Original Signed

Dennis A. Dickerson
Executive Officer

Dated: December 22, 1998

WAIVER OF THE RIGHT TO A HEARING

- ☐ By checking the box, administrative civil liability proposed in Complaint No. 98-111 for Administrative Civil Liability, Foam Molders & Specialties, Inc. waive their right to a hearing before the Regional Board with regard to the violations alleged in Complaint No. 98-111. Foam Molders & Specialties, Inc. understand that it is giving up its right to argue against the allegations made by the Executive Officer in this complaint, and against imposition of, and the amount of, the civil liability imposed. I understand that if an Administrative Civil Liability Order is adopted at the Regional Board meeting on January 25, 1999, payment will be due on February 25, 1999.

Signature: _____

Name: _____

Position: _____

Company: _____

Date: _____